

AN ORDINANCE

**ADOPTING ARTICLE 6.06, "PROPERTY MAINTENANCE CODE," AND
PROVIDING A PENALTY OF UP TO TWO THOUSAND DOLLARS (\$2,000)**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF LEON VALLEY, TEXAS, THAT:**

1. Chapter 6, Article 6.06, "Property Maintenance Code," is hereby adopted to read as follows:

"Article 6.06 Property Maintenance Code

Sec. 6.06.001 Purpose and intent of article

- (a) The purpose of this article is to provide minimum standards and regulations to help safeguard and preserve life or limb, property and public welfare by regulating the use, occupancy and maintenance of all structures, buildings and properties within the city.
- (b) It is hereby declared to be the purpose and intent of this article to regulate and control public nuisances and other conditions and circumstances, as set forth in this article that adversely affects the health, safety or welfare of the general public. It is not intended that this article be interpreted or enforced to require the city to intervene in matters which are primarily personal or private in nature and which may appropriately be resolved between or among private interests without material danger to the public health, safety or welfare.

Sec. 6.06.002 Scope of article

This article shall apply to all zoning districts, land, properties, structures and buildings within the city, including all occupied, residential, nonresidential, improved or unimproved land, properties, structures and buildings.

Sec. 6.06.003 Penalties

Each violation of this article if a first offense shall be punished by penalty of a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00); a second conviction shall be punished by penalty of fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for a second conviction, and shall

be fined an amount no less than one hundred dollars (\$100.00) for a third or more convictions nor more than two thousand dollars (\$2,000.00).

Sec. 6.06.004 Severability of parts of code

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the city council without the incorporation in the code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 6.06.005 Enforcement and inspection

- (a) The enforcement authority for this article shall be the city manager, Code Enforcement Officer or the person or department to whom the city manager delegates the enforcement responsibility.
- (b) Whenever it is necessary to make an inspection to enforce this article, or whenever the enforcement authority has reasonable cause to believe that there exists in any structure or upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental to the public interest, the enforcement authority may enter such structure or property at all reasonable times to inspect such structure or property; provided, however, that if such structure or property is occupied, he shall first present proper credentials and request entry, and if such entry is refused, the enforcement authority shall have recourse to every remedy provided by law to secure entry.

Sec. 6.06.006 Stricter standards or regulations

If any other ordinances of the city conflict with this article and the standards and regulations established in this article, the higher or stricter standard, regulation or ordinance shall prevail.

Sec. 6.06.007 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Enforcement authority. The city manager, Code Enforcement Officer or the person or department to whom the city manager delegates the enforcement responsibility.

Graffiti. Words, phrases, designs, symbols, letters or drawings written, painted or scratched on sidewalks, fences, walls, windows, walls of buildings, trees or other structures or items.

Lateral clearance. The dimension measured horizontally and perpendicular to a sidewalk, street, paved alley or easement within which no encroachment is allowed; or the dimension measured horizontally and perpendicular to an alley or easement line beyond which no encroachment is allowed.

Nuisance. Is as follows:

- (1) Any public nuisance known and established at common law or in equity jurisprudence;
- (2) Any attractive nuisance known at common law or in equity jurisprudence, including, without limitation, any abandoned wells, shafts, basements or excavations, abandoned refrigerators, or any structurally unsound fences or structures, or any lumber, trash, fence, debris or vegetation which are or may be hazardous.
- (3) Whatever is dangerous to human life or is detrimental to health, and is contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city;
- (4) Overcrowding a room with occupants, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city;
- (5) Insufficient ventilation or illumination, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city;
- (6) Inadequate or unsanitary sewage or plumbing facilities, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city;
- (7) Uncleanliness, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city;
- (8) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings, and is contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city;
- (9) Graffiti of any type;
- (10) A live tree, shrub or other similar plant of any description which creates a hazard or risk of damage or destruction to persons or property, contrary to the public health, safety or welfare or in violation of the code and ordinances of the city; and
- (11) Any other nuisance or public nuisance as defined by the codes and ordinances of the city.

Owner. Any person claiming, or in whom is vested, the ownership, dominion or title of real or personal property, including, but not limited to:

- (1) Holder of fee simple title;
- (2) Holder of life estate;
- (3) Holder of a leasehold estate for an initial term of five years or more;
- (4) A buyer in possession, or having right of possession under a contract for deed;
- (5) A mortgagee, receiver, executor or trustee in possession or control, or having right of possession or control, of real property; and
- (6) Any agent who is responsible for managing, leasing or operation of property.

Premises. Any parcel, lot or tract of land, including any structure, building, landscaping or trees thereon or other structure or improvement located thereon.

Structure. Any residential building, nonresidential building, dwelling, condominium, townhouse, apartment unit, detached garage, shed, awning, fence, screening wall, sign, swimming pool, excavation or any other edifice, erection or material placed or located on any property within the city, and any other improvement of any kind or nature.

Tenant. Any person or their agent who occupies a structure or property.

Sec. 6.06.008 Exterior grounds

- a) *Sanitation.* All exterior property areas shall be maintained in a clean, safe and sanitary condition, free from accumulations of rubbish, garbage, junk or waste which constitute a public nuisance, contrary to the public health, safety or welfare.
- b) *Grading and drainage.* Grading and drainage maintenance standards are as follows:
 - (1) All property shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within or under any structure located thereon.
 - (2) No filling, excavation or other improvement shall be performed or constructed on any property which will have an adverse effect on an existing drainage pattern on an adjacent property.
- c) *Sidewalks.* All sidewalks, walkways, steps and areas located on all private property, other than single-family properties, and intended for public use, such as a sidewalk from a street to the front door of a dwelling or

business, a sidewalk from a parking area to the primary public entry door of a business, a sidewalk in front of retail businesses such as a shopping center and other similar conditions shall be maintained by the owner and tenant of such property in a proper state of repair, free of mud, debris or other obstructions that would impair or prevent their use. The owner and tenant of private property adjacent to all sidewalks, walkways, steps and public areas located on public property shall keep such sidewalks, walkways, steps and public areas free of mud, debris or other obstructions that would impair or prevent their use.

- (d) *Rodent and insect control.* Every owner and every tenant of a structure or property shall keep such property or structure free of insects, rats, fire ants, vermin or other pests which create a hazard or a nuisance to adjacent property or are otherwise detrimental to the public health, safety or welfare.
- (e) *Glare.* Exterior lights placed or erected on private property shall be shielded, placed or erected so as not to create a traffic hazard or a public nuisance.
- (f) *Trees, shrubs and plants.* Standards for trees, shrubs and plants are as follows:
 - (1) Trees, shrubs and plants shall not obstruct the access to or from any door or window of any structure which is used, or is required by city codes and ordinances to be used, for ingress and egress.
 - (2) Trees, shrubs or plants shall not create a hazard or an obstruction and shall be maintained within the following minimum clearances:
 - a. Overhead clearance of public sidewalks and other public pathways, seven feet vertical clearance.
 - b. Lateral clearance of public sidewalks and other public pathways, six inches from each edge of sidewalk or pathway.
 - c. Overhead clearance of streets, tree limbs and other projections over the street shall be maintained at a minimum of 14 feet vertical clearance above the street pavement.
 - (3) Trees, shrubs or plants that are dead or which are hazardous to persons or property shall be removed. Any tree, shrub or plant that appears to have lost more than 75 percent of its living foliage shall be considered dead.
- (g) *Nuisances.* All properties shall be maintained free of nuisances.

- (h) *Weeds, grass and other groundcover.* Standards for weeds and grass are as follows:
- (1) Weeds, grass and brush shall be maintained at a height not exceeding twelve inches. Property owners and/or tenants are responsible to maintain the property from curb line or edge of roadway to half of alley way or easement.
 - (2) All cut weeds, grass, shrubs or brush shall not be kept or allowed to accumulate on any public street, sidewalk or other public way.
 - (3) Weeds, grass, shrubs or brush shall not be deposited in any inlet, manhole or storm sewer or sanitary sewer system.
 - (4) The unpaved areas of the front yard shall be maintained with a grass, ground cover, or other type of landscaping to such an extent that the soil when wet will not be picked up and spread to sidewalks or adjacent private or public property and is not subject to erosion during rains. The landscaping occupying the unpaved areas of the front yard shall be provided with adequate water to sustain the landscape material, unless landscape watering is prohibited by mandatory water restrictions.
- (i) Accumulation of firewood, lumber, bricks, stones or any other character of materials which may be used as a harborage by rats, rodents or other vermin, or in which evidence of rats, rodents or other vermin is found shall be placed or stored on open racks and elevated with a clear intervening space of not less eighteen inches clear space.
- (j) *Accessory structures.* Carports, awnings, patio covers, garages, sheds, storage buildings and other accessory structures shall be maintained structurally sound, and free of deterioration. All accessory structures shall be protected from the elements by periodic painting, staining or other weatherproofing or surface protection.
- (k) *Swimming pools and spas.* Swimming pools, spas and similar structures shall be maintained safe, clean, sanitary, secure and structurally and mechanically sound in accordance with applicable codes and ordinances of the city. Furthermore, at no time the water of such pools or spas or similar structures, are not permitted to be emptied onto a public street, sidewalk or adjoining properties.
- (l) *Permitted items in the front yard.* In the R-1, R-2, R-3, R-3A, R-4, R-5, R-6, R-7 and residential planned development zoning districts, no building, structure, fence, accessory object or other appurtenances, improved parking area or driveway shall be constructed, erected, placed or located in the front yard unless specifically listed in this section. Accessory objects and appurtenances not listed herein shall not be permitted in the front yards by exclusion. For purposes of this section, the term "height" shall mean that vertical dimension at any point measured from the average natural grade of the area within two feet of such point. Permitted items are as follows:

- (1) Any edging for flower or hedge beds that does not exceed 12 inches in height and is constructed of brick, stone, treated lumber or other material approved by the enforcement authority.
 - (2) Freestanding statuary, columns, bird baths and pedestals not exceeding 72 inches in height.
 - (3) Lawn furniture, including benches, tables, and stools which do not exceed 42 inches in height and are designed and constructed for outdoor use.
 - (4) Landscape lighting which does not create an offensive glare to occupants of surrounding properties.
 - (5) Single pole basket ball goals, provided they are not placed along roadway, edge of curb, on street or sidewalk.
- (m) The maximum number of objects or items of either lawn furniture or freestanding statuary permitted in residential front yards at any one time shall not exceed five (5).
- (n) *Outside storage.* It shall be unlawful for any person to allow, permit, conduct or maintain any outside storage on any portion of a lot or tract, outside of an enclosed structure, or under a carport or covered patio or other projecting overhang, for a continuous period in excess of ten days.
- (1) Prohibited outside storage for this section shall include, but not be limited to, the following items stored in a manner other than in an enclosed building:
 - a. Building material;
 - b. Supplies, materials or other matter associated with a home occupation;
 - c. Supplies, materials or other matter associated with a nonresidential activity;
 - d. Chemicals;
 - e. Furniture;
 - f. Appliances not designed for outdoor use;
 - g. Appliances designed for outdoor use but not currently installed;
 - h. Tools, mobile and/or mechanical equipment not connected with a residential use;
 - i. Lawn maintenance equipment;
 - j. Motor vehicle parts and/or accessories including but not limited to engines, transmissions, electrical parts, suspension parts, vehicle body parts, batteries, tires, wheels, hubcaps and other motor vehicle parts;
 - k. Other items or personal property which are not customarily used or stored outside and which are not made of a material that is resistant to damage or deterioration from exposure to the outside environment; or

1. Trash, garbage or other refuse.
- (2) It shall be an affirmative defense to prosecution:
 - a. In the case of all outside storage which is not deemed a nuisance, that such storage:
 1. Is screened from view from private or public property by a solid fence, wall, landscaping or a combination of fence and landscaping.
 - b. In the case of building material, that such material is stored in a workmanlike manner as part of, and in conjunction with, an active building permit and is in compliance with the building code.
 - c. In the case where the item is:
 1. Awaiting pickup by the city or other sanitation service;
 2. In a container or bag as approved by the city; and
 3. In an approved location for the city or other sanitation service pickup.
 - d. In the case of furniture, that such furniture is designed and constructed for outside use, and further, that such furniture is in good condition and is not deteriorated.
 - e. In the case of outside storage of a type not specifically mentioned in this section, that such outside storage is:
 1. Of a type that is minor in nature;
 2. Of a type and quantity which is traditionally or commonly associated with the residential use of the property;
 3. Screened from view from private or public property by a solid fence, wall, landscaping or a combination of fence and landscaping.
- (o) *Garbage Receptacles.* It shall be unlawful for trash receptacles to be left in the front yard at any time. All receptacles are to be stored in the side or rear yard or out of sight of the front yard. Additionally, the trash receptacles shall be placed for curbside collection no earlier than 7:00 p.m. the night before collection and must be removed no later than 10:00 p.m. the date of collection.

Sec. 6.06.009 Exterior of structure

- (a) *Generally.* The exterior of a structure shall be maintained structurally sound.
- (b) *Structural members.* All supporting structural members of all structures shall be kept structurally sound, free of deterioration and maintained capable of safely bearing the dead and live loads upon them.

- (c) *Exterior surfaces.* The foundation, exterior wall, floor, roof and all exterior surfaces of every structure shall be maintained in a state of repair sufficient to exclude rats, rodents, birds, vermin and other animals. Peeling paint, cracked or loose plaster, broken glass, decayed wood and other defective surface conditions shall be repaired, replaced or restored.
- (d) *Foundation walls.* All foundation walls shall be maintained so as to safely carry applicable dead and live loads that are imposed upon the foundation walls.
- (e) *Exterior walls.* The exterior wall of every occupied structure shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to interior of the structure. The exterior wall surface materials of every structure shall be maintained weatherproof or the surface protected as required to prevent deterioration.
- (f) *Roofs.* The roof of every occupied structure shall be structurally sound, tight and free of leaks, and roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the structure. Repairs made to roofs shall be completed in a workmanship like manner and repair materials shall match the existing roof material.
- (g) *Decorative features.* The cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings and similar decorative features of every structure shall be maintained in good repair with proper anchorage and in a safe condition.
- (h) *Exterior attachments.* All exterior canopies, marquees, signs, awnings, stairways, fire escapes, standpipes, rain gutters, exhaust ducts and similar overhang extensions attached to a structure shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition, and their exterior surface materials shall be maintained weatherproof and shall be surface coated or protected as required to prevent deterioration.
- (i) *Chimneys.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound, properly mortared and in good repair, and their exterior surface materials shall be maintained weatherproof and shall be surface coated or protected as required to prevent deterioration.

- (j) *Stairs and porches.* Every stair, porch, balcony and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair, and their exterior surface materials shall be maintained weatherproof and shall be surface coated or protected as required to prevent deterioration.
- (k) *Window and door frames.* The windows, doors, and frames of every occupied structure shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible from entering the dwelling or structure.
- (l) *Weathertight.* The windows and exterior doors of every occupied structure shall be fitted in their frames so as to be reasonably weathertight and shall be kept in sound condition and good repair.
- (m) *Glazing.* Every window and/or window sash shall be fully supplied with approved glazing materials which are without open cracks and holes. A window and/or window sash may be temporarily secured and/or closed with alternate materials approved by the enforcement authority for periods during actual construction, remodeling or repairs, provided the period of time does not exceed 30 days. The enforcement authority may grant extensions of time due to extenuating circumstances.
- (n) *Insect screens.* Every window of every occupied structure which may be opened and used for ventilation shall be supplied with approved screening.
- (o) *Door hardware.* The exterior doors, door hinges and door latches of every occupied structure shall be maintained in good condition. Door locks in exterior doors of dwelling units shall be maintained in good repair and capable of tightly securing the door.
- (p) *Burglar bars.* Burglar bars shall comply with requirements of the building code and other codes or ordinances of the city. Burglar bars on windows of bedrooms of residential structures shall be constructed and mounted in such a way so as to be operable and openable from the interior of the residence.
- (q) *Garage doors.* Garage doors shall be kept free from any defects and are capable of being opened and closed reasonably plumb, properly attached and the exterior surface maintained weatherproof as required to prevent deterioration.

- (r) *Sanitation.* All exterior surfaces of structures shall be maintained in a clean, safe and sanitary condition, free from accumulations of dirt, grime, filth, mold, mildew, fungus or other matter which constitute a nuisance or are contrary to the public health, safety, welfare.

Sec. 6.06.010 Notice of nuisance or violation; service; failure to comply; abatement; costs; lien; administrative fees.

- (a) If a nuisance is found to exist upon any property within the city, or if any person owning, claiming, occupying or having supervision or control of any property within the city limits, fails to comply with this article's provisions, it shall be the duty of the enforcement authority or his duly appointed representative to give a minimum of ten days' official notice in writing to such person which is creating and/or allowing the continuance of such nuisance, or is violating the terms of this article. Where maintenance requires extensive work it is at the discretion of the City Manager, or their designee or department to allow 30 days for compliance. Extenuating circumstances will be considered on a case by case basis. If such person fails or refuses to comply with the provisions of this article within the specified period following notification, they shall be considered to be in violation and subject to fine, penalties and/or abatement by the City or person(s) contracted by the City for the abatement/cleanup of properties as provided by this article.
- (b) The notice shall be in writing and may be served on the property owner, or agent of the owner, or tenant by handing it to him/her in person, by United States mail, addressed to such owner, or agent of the owner, or tenant at his post office address, or if the address is unknown, then by posting such notices on the front door of the dwelling or establishment or where no building exists, by posting them on a sign in the front yard.
- (c) The city shall be further entitled to go upon such nuisance properties and do or cause to be done the work necessary to abate any public nuisance existing in violation of this article if such person fails or refuses to comply with the provisions of this article within the specified period following official notification.
- (d) All costs for abatement of any such public nuisance, or any part of a nuisance, including costs for mailing of a notice and filing of a statement with the county clerk and interest shall be levied, assessed and collected against such property or upon which such public nuisance, or any part of a nuisance, is located. If any owner of such property shall fail to pay the costs so assessed within 30 days after being notified of such costs, the city shall file with the county clerk a statement of such costs. The city shall have a privileged lien on the premises and the personal obligation of the owner of such property, second only to tax liens and liens for street improvements, to receive the costs so made and twenty-five (25) percent interest on the amount from the date the payment is due. For any such

costs and interest, suit may be instituted in the name of the city, and the statement of costs, as provided previously in this article, shall be prima facie proof of the costs expended in such work.

Sec. 6.06.011 Variances

(a) The city council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings below required, the council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the probable effect of such variance on surrounding property, and the probable effect of such variance on the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the council finds:

(1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of this land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

(3) The granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

(b) Such findings of the council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.

2. Each violation of this article shall be punishable by a fine of up to two thousand dollars (\$2000), unless some other fine is specifically prescribed for a particular violation.

3. This Ordinance shall become effective on and after its passage, approval and publication as prescribed by law.

PASSED AND APPROVED this 21st Day of February, 2012.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

DRAFT